

Remarks

Claims 1 through 10 are pending in this application. Claims 1, 3, and 5 through 10 stand rejected. Claims 2 and 4 are objected to as being dependent upon a rejected base claim.

Rejections are presented by the Office under the judicially created doctrine of obviousness-type double patenting and 35 U.S.C. §112, first paragraph.

This paper contains amendments under 37 C.F.R. §1.121. In order to advance prosecution and allowance, Claims 1, 3, and 10 are cancelled while Claim 9 is amended to claim breast cancer and prostate cancer. The remaining claims are amended to independent format (Claims 2 and 4) or to depend on Claims 2 and/or 4 (Claims 5 through 9). Basis for these amendments can be found, at minimum, at page 37, line 33 through page 38, line 30.

Information Disclosure Statement

Applicants note the Office's acknowledgement of Information Disclosure Statement, filed on August 15, 2006.

Rejection of Claims 1, 3, and 5 through 10 under the Judicially Created Doctrine of Obviousness-type Double Patenting

Claims 1, 3, and 5 through 10 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over Claims 1, 2, and 9 through 13 of copending U.S. Patent Application No. 10/535,381. While Applicants do not acquiesce to the merits of this rejection, Claims 1, 3, and 10 have been cancelled. Claims 5 through 9 have been amended to depend on Claims 2 and/or 4. As such, Applicants respectfully assert that the rejection is obviated and request the rejection's withdrawal.

Rejection of Claims 9 and 10 under 35 U.S.C. §112, First Paragraph

Claims 9 and 10 are rejected under 35 U.S.C. §112, first paragraph, as allegedly failing to comply with the enablement requirement. While Applicants do not acquiesce to the merits of this rejection, Claim 10 has been cancelled while Claim 9 has been amended to delete the term "susceptible neoplasms." Instead, Claim 9 now is directed to a method of treating breast cancer or prostate cancer. As such, Applicants respectfully request the withdrawal of this rejection.

Objection

Claims 2 and 4 have been rewritten in independent form including all of the limitations of the base claim.

Conclusion

Applicants assert that the above-stated remarks overcome the Office's rejections for this application. Applicants courteously solicit reconsideration of these rejections and passage of this case to issuance.

Respectfully submitted,

/Danica Hostettler/

Danica Hostettler
Attorney for Applicants
Registration No. 51,820
Phone: 317.276.3711

Eli Lilly and Company
Patent Division
P.O. Box 6288
Indianapolis, Indiana 46206-6288

November 30, 2007